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IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.13403 of 2015

Sri Bipin Bihari Pradhan **Petitioner**
Mr. B.K. Ragada, Advocate
-versus-
State of Odisha and others **Opposite Parties**
Mr. M.S. Sahoo, A.G.A. for the State

CORAM:
THE CHIEF JUSTICE
JUSTICE S.K. PANIGRAHI

ORDER
14.07.2021

Order No.

20.

1. This matter is taken up by video conferencing mode.
2. This petition under Article 226 of the Constitution of India has been filed as a public interest litigation by the General Secretary of the State Leprosy Welfare Federation, Odisha seeking *inter alia* directions to the Opposite parties – State authorities for effective implementation of the National Leprosy Eradication Programme (NLEP) and in particular the resolution passed on 7th January 2014 at the NLEP meeting as well as the decision reflected in a note sheet dated 20th January 2014 of the Minister for Health and Family Welfare Government of Odisha. A further prayer is for the Court to appoint a high level committee to enquire into and submit a report to enable directions to be issued by the Court regarding composite post management treatment and eradication of leprosy from the State.

3. In the counter affidavit filed by the Opposite Parties State, there is an implicit admission that despite interventions through the National Leprosy Eradication Programme (NLEP), and integrating it with the general health system, the incidence of leprosy has not gone down. Acknowledging that leprosy is an “iceberg disease” having a long incubation period which varies from 5 to 10 years and may extend up to 30 years, it is admitted by the Opposite Parties that the survey of the affected communities since 2010-11 “has resulted in increased detection of cases” which was previously lying undetected.

4. In the rejoinder filed by the Petitioner, it has been pointed out that while the State of Odisha was quick to declare Odisha as leprosy free State in 2006-07, it dismantled several posts of paramedical workers and field officers that earlier existed to deal with the situation. As per the official statistics in that year, it still had 5038 leprosy affected persons. As of 2018-19 that number has grown to 10,465. It is stated that there are 77 leprosy colonies in a very poor condition. The leprosy affected persons living there are in dire need of medical care and treatment and are deprived of opportunity of earning livelihood.

5. The Petitioner submits that there is a callous neglect by the State authorities to the medical and health care needs of leprosy patients as is evident from the fact that instead of a training program of a

minimum of four months for Leprosy Trained Paramedical Workers (LTPW) a three day training program is devised to train Multi-Purpose Health Workers (MPHW) and 2 days' training given to Block Nodal Leprosy Worker (BNLW) to convert them to LTPWs. It is pointed out that within three days the composition of the Multi Drug Treatment (MDT) cannot possibly be understood.

6. It is pointed out by the Petitioner that not even single counselor has been appointed by the Government of Odisha to provide counseling services to the victims of leprosy and their family members. Not a single dresser and other health staff is stated to be available at the 20 bedded Hospital and 33 bedded Leprosy Home at Lewis Colony, Bamapada, Baleswar. Photographs of the conditions of different leprosy colonies like Sanjay Leprosy Colony of Puri town, Dhanabati Leprosy Colony of Jatni, Bapujee Leprosy Colony of Jatni and Bhagabat Leprosy Colony at Khurda have been enclosed to show the non-hygienic living conditions of the leprosy patients.

7. It is stated that despite the State making provisions in the annual budget for payment of monthly salary of 404 numbers of leprosy trained paramedical workers, this is not being utilized. Reference is made to a letter dated 6th August 2019 written by the Principal Secretary to the Government in the Department of Social Security & Empowerment of Persons with Disabilities to the Commissioner-cum-Secretary to the Government, Health and Family Welfare

department pointing out that “most of the posts of Para medical Workers, non-medical Supervisors and support staff (Dressers and Attendants etc.) trained in leprosy are lying vacant” and requesting that the said posts should be filled up “preferably by eligible persons cured of leprosy and children of persons affected by leprosy.” Nothing appears to have been done pursuant to the said request.

8. At this juncture, it is necessary to note that the issue of leprosy eradication has engaged the Supreme Court at least on two occasions in the past. In *Dhirendra Pandua v. State of Orissa (2008) 17 SCC 311*, while upholding the validity of Sections 16(1)(iv) and 17(1)(b) of the Orissa Municipal Act, 1950 under which a person afflicted with leprosy would be disqualified from holding the post of Councillor or Chairperson, the Supreme Court took note of the progress made in the field of science and technology and curability of leprosy and observed:

"29. It is true that now with aggressive medication a patient may be fully cured of the disease, yet the Legislature in its wisdom has thought it fit to retain such provisions in the statute in order to eliminate the danger of its being transmitted to other people from the person affected by the disease. Having regard to these circumstances, we are convinced that the said classification does bear a reasonable and just relation with the object sought to be achieved by the statute in question and cannot be said to be unreasonable or arbitrary. Accordingly, we hold that Sections 16(1)(iv) and 17 (1)(b) of the Act are not violative of Article 14 of the Constitution.

30. Before parting with this case, we deem it appropriate to point out that having regard to the changed concept and knowledge gained about the disease of leprosy, on the recommendation of the Working Group on Eradication of Leprosy, appointed by the Government of India, many State Governments and Union Territories have repealed the antiquated Lepers Act, 1898 and subsequent similar State Acts, providing for the segregation and medical treatment of pauper lepers suffering from infectious type of disease. Therefore, keeping in view the present thinking and researches carried on leprosy as also on tuberculosis, and with professional input, the Legislature may seriously consider whether it is still necessary to retain such provisions in the statutes."

9. The situation in the ground however underwent little change. The present petition appears to mirror the concerns voiced in a petition filed in the Supreme Court of India under Article 32 of the Constitution in 2014 by Sri Pankaj Sinha. In the said petition directions were sought to the central and state governments "to conduct periodic national survey for determining new cases relating to detection rate of leprosy and to publish and bring in the public domain the reports of National Sample Survey on Leprosy conducted in 2010-2011 and further to conduct regular and sustainable massive awareness campaigns for the general public to dispel the fear associated with leprosy and support and encourage the people afflicted by the said disease to lead a life of equality and dignity."

10. The other prayers in the said petition were that:

- (i) The respondents should ensure that Multi-Drug Therapy (MDT) drugs and other drugs for management of leprosy and complications in leprosy are available free of cost and do not go out of stock at all Primary Health Centres (PHCs) in the country;
- (ii) all hospitals and health care institutions throughout the country, whether private or Government, should be directed not to discriminate against women with leprosy and not to turn them away and deny them treatment;
- (iii) Mandamus to issue to all the schools in the country not to discriminate against children from leprosy affected families and to provide them free education.
- (iv) Hygienic conditions be provided in leprosy colonies and MCR footwear be made available free of cost to the leprosy affected persons in the country.
- (v) Union of India to frame separate rules for evaluation of disabilities suffered by leprosy affected persons for the purpose of issuing disability certificate in exercise of the power granted under the Rights of Persons with Disabilities Act, 2016 (No. 49 of 2016).

10. In its judgment dated 14th September, 2018 in ***Pankaj Sinha v. Union of India (2014) 16 SCC 390***, the Supreme Court observed as under:

“In the instant writ petition, the petitioner has drawn the attention of the Court to the fact that although leprosy as a disease has been scientifically and medically proven to be curable and manageable with MDT, yet the fact remains that millions of people and their family members still suffer from leprosy and the social, economic and cultural stigma attached to the said disease. This fact reveals the lack of awareness and the prevailing misguided notions in the society pertaining to leprosy. Further, the miserable plight of the persons afflicted with leprosy does not end here. It has been highlighted that due to the disability that entails as a result of the disease, the people affected by leprosy suffer additional discrimination in the form of denial of access to health services, education and livelihood options. At present, majority of the populace which is afflicted with leprosy live as a marginalized section in the society deprived of even basic human rights which manifestly results in violation of the fundamental right to equality and right to live with dignity.

11. The Supreme Court in ***Pankaj Sinha (supra)*** took note of the grim reality that:

“although India had declared way back in 31.12.2005 that it has achieved the said goal of elimination of leprosy, yet the progress reports of NLEP which have been reporting prevalence rate in certain States of the Ministry of Health and Family Welfare exhibit an entirely different reality. As per the said reports, out of 642 districts in India, only 543 districts have achieved a prevalence rate of less than one case of leprosy for 10,000 persons. The

underestimation of the cases of leprosy and the declaration of elimination of leprosy has resulted in the integration of leprosy in general health services thereby leading to diversion of funds which would have otherwise been dedicated to eliminating leprosy.””

12. The Supreme Court then proceeded to issue the following extensive directions:

“18. Keeping in view the factual matrix in entirety and the submissions advanced, we think it appropriate to issue the following directions :-

(i) The Union and the States are to undertake periodical national surveys for determining the prevalence rate and new cases detection rate of leprosy and, at the same time, publish and bring the reports of the National Sample Survey of Leprosy conducted in 2010-11 and subsequent thereto into the public domain. That apart, the activities of the National Leprosy Eradication Programme (NLEP) must be given wide publicity;

(ii) On leprosy day which is internationally observed every year on the last Sunday of January, the Union of India along with all State Governments should organize massive awareness campaigns to increase public awareness about the signs and symptoms of leprosy and the fact that it is perfectly curable by the Multi Drug Therapy (MDT). Awareness should also be spread about the free availability of MDT at all government health care facilities in the country, the prescribed course for MDT treatment and all other relevant information related to MDT. The content and information contained in the awareness programmes should discontinue to use frightening images of people disabled with leprosy and

instead use positive images of cured persons sharing their experiences of being cured of leprosy;

(iii) The Union and the States are to ensure that drugs for management of leprosy and its complications including the MDT drugs are available free of cost and do not go out of stock at all Primary Health Centres (PHCs) or, as the case may be, public health facilities in the country;

(iv) All-year awareness campaigns should also be run, by the Union as well as the States, to inform the citizenry that under the National Leprosy Eradication Programme (NLEP), treatment is provided free of cost to all leprosy cases diagnosed through general health care system including NGOs;

(v) The Union and the States must organize seminars at all levels which serve as platforms to hear the views and experiences directly from the former patients and their families as well as doctors, social workers, experts, NGOs and Government officials;

(vi) The awareness campaigns must include information that a person affected by leprosy is not required to be sent to any special clinic or hospital or sanatorium and should not be isolated from the family members or the community. The awareness campaigns should also inform that a person affected with leprosy can lead a normal married life, can have children, can take part in social events and go to work or school as normal. Acceptability of leprosy patients in the society would go a long way in reducing the stigma attached to the disease;

(vii) Health care to leprosy patients, at both Government as well as private run medical institutions, must be such that medical officials and representatives desist from any discriminatory behaviour while examining and treating leprosy patients. Treatment of leprosy should be

integrated into general health care which will usher in a no-isolation method in general wards and OPD services. In particular, it must be ensured that there is no discrimination against women suffering from leprosy and they are given equal and adequate opportunities for treatment in any hospital of their choice. To this effect, proactive measures must be taken for sensitization of hospital personnel;

(viii) Patients affected with leprosy, for whom partial deformity can be corrected by surgery, should be advised and provided adequate facility and opportunity to undergo such surgeries;

(ix) The possibility of including leprosy education in school curricula so as to give correct information about leprosy and leprosy patients and prevent discrimination against them should be explored;

(x) The Union and the State Governments must ensure that both private and public schools do not discriminate against children hailing from leprosy affected families. Such children should not be turned away and attempt should be made to provide them free education;

(xi) Due attention must be paid to ensure that the persons affected with leprosy are issued BPL cards so that they can avail the benefits under AAY scheme and other similar schemes which would enable them to secure their right to food;

(xii) The Union and the States should endeavour to provide MCR footwear free of cost to all leprosy affected persons in the country;

(xiii) The States together with the Union of India should consider formulating and implementing a scheme for providing at least a minimum assistance, preferably on a

monthly basis, to all leprosy affected persons for rehabilitation;

(xiv) The Union and the State Governments must pro-actively plan and formulate a comprehensive community based rehabilitation scheme which shall cater to all basic facilities and needs of the leprosy affected persons and their families. The scheme shall be aimed at eliminating the stigma that is associated with persons afflicted with leprosy.

(xv) The Union Government may consider framing separate rules for assessing the disability quotient of the leprosy affected persons for the purpose of issuing disability certificate in exercise of the power granted under the Rights of Persons with Disabilities Act, 2016 (No. 49 of 2016).”

13. The fact situation encountered by the Supreme Court in 2018 does not appear to have undergone much change. In the affidavits filed by the Opposite Parties State there is no indication to what extent the above directions in *Pankaj Sinha* have been complied with. No clear picture has emerged on the exact number of leprosy affected persons in the State of Odisha, district-wise as of date. Also, there is no clarity on the facilities available in every district to the leprosy affected persons and whether the various interventions by the State and the Centre have had any positive impact and have resulted in a reduction of the incidence of leprosy.

14. It is accordingly directed that the Director, Health Services, Odisha should specifically address the above issues and place before this Court by the next date by way of an affidavit the complete up to date statistics regarding (a) prevalence of leprosy of both varieties (b) status of compliance with each of the directions issued in ***Pankaj Sinha*** as far as Odisha is concerned (c) Status of availability of treatment, beds, drugs (including MDT) at the various hospitals, PHCs, health care centres in urban and rural locations (d) status of filling up of vacant posts of medical officers and staff. The Court emphasises that exact figures rather than platitudes or general vague statements of “due care and attention” being given be placed on record.

15. In the meanwhile, in order to ascertain the actual condition of the leprosy colonies in Puri town, Jatni and in Khurda i.e. Sanjay Leprosy Colony of Puri town, Dhanabati Leprosy Colony of Jatni, Bapujee Leprosy Colony of Jatni and Bhagabat Leprosy Colony at Khurda, as well as the Leprosy Home at Lewis Colony, Bamapada, Baleswar the Court appoints a Committee of the following three Advocates i.e. (i) Mr. Gautam Mishra, Senior Advocate, (ii) Mr. B.P. Tripathy, Advocate and (iii) Ms. Pami Rath, Advocate to visit the aforementioned leprosy colonies and Leprosy Home at Baleswar on any date after 19th July 2021 and within two weeks thereafter to (a) ascertain the actual living conditions and medical facilities available to the inmates living there .

- (b) Speak to/interact with the inmates and ascertain what the issues faced by them are and whether the interventions by way of NLEP and the State programmes have had a positive effect?
- (c) Interact with the trained leprosy workers/ paramedical workers/multipurpose health workers, catering to the needs of the inmates in the said colonies.
- (d) Interact with the families of those affected with leprosy and understand what their immediate and long term needs are;
- (e) Ascertain the status of compliance with the directions issued by the Supreme Court of India in ***Pankaj Sinha***.

16. The Committee will try and interact with also interact with the independent health professionals for their perspectives, inputs and suggestions which can then be incorporated in the report.

17. A joint report of the Committee of Advocates on the above aspects, enclosing the photographs/videographs of the actual living conditions of the persons at the above locations, and including specific suggestions regarding directions required to be issued by this Court, be placed before this Court by the next date with an advance copy to learned Mr. M.S. Sahoo, learned Additional Government Advocate.

18. The Collectors of Puri, Khurda and Baleswar Districts will extend their full cooperation and facilitate the visits by the Committee and extend all logistic support as well.

19. List on 2nd September, 2021.

20. A copy of this order be sent to each of the three learned Advocates comprising the Committee forthwith along with a copy of the paperbook. A copy each of this order be sent forthwith to the Collectors of Puri, Khurda and Baleswar Districts as well as the Director, Health Services, Odisha for compliance.

21. As the restrictions due to resurgence of COVID-19 situation are continuing, learned counsel for the parties may utilize a printout of the order available in the High Court's website, at par with certified copy, subject to attestation by the concerned advocate, in the manner prescribed vide Court's Notice No.4587, dated 25th March, 2020 as modified by Court's Notice No.4798, dated 15th April, 2021.

(Dr. S. Muralidhar)
Chief Justice

(S.K. Panigrahi)
Judge

S.K. Guin